

REMARKS

Applicant expresses appreciation to the Examiner and the Examiner's supervisor for conducting the interview of December 21, 2010. As discussed, in view of the maintained rejections of the claims based essentially on Dencker, EP 1011182, claims 1, 22, 34 and 35 have been amended and the following supports the patentability of the claims.

Dencker Supports A Replaceable Tape, Teaching Away From The Claimed Segmented Conductor Means Which Is Integral With The Blade

W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F.2d 1540 (Fed. Cir. 1983) holds that a "reference must be considered in its entirety, i.e., as a whole, including portions that would lead away from the claimed invention." In addition, rejections cannot be supported by modifications to references which eliminate desired features. *In re Larson*, 340 F.2d 854, 144 U.S.P.Q. 347 (CCPA 1965).

As discussed during the interview, Dencker only teaches a replaceable tape serving as a lightning conductor. The tape is expected to be damaged by lightning at various locations and is expected to be replaced. See Dencker's paragraphs 0058-0060. As can be appreciated, removing the ability to replace the tape would conflict with Dencker's design criteria so that such a modification does not support a rejection of the claims. See *Larson*, 340 F.2d at 347.

Indeed, Dencker's preferred design is the exact opposite structure of the claimed invention. As discussed, Claim 1 is directed to a method of forming a blade in a mould such that the segmented conductor means are integral with the blade. See Dencker's paragraph 0051. In other words, the segmented conductor means cannot be removed from the blade. This is underscored by the claim recitation that fibers are laid on top of the segmented conductors means. Such an

integrated configuration is acceptable because as discussed and claimed, lightning travels in the space outside of the segmented conductor means and damage thereto is avoided. As Dencker's only disclosed and preferred configuration teaches away from the claimed integral blade and lightning conductor, the reference does not support a rejection of the claims. *See W.L. Gore*, 721 F.2d at 1540.

It is noted that Clark, USPN 6,319,346, is cited in the Office Action, in combination with Dencker, for teaching manufacturing, from a single mould, a blade with an integrated segmented conductor means. This combination is inappropriate for the reasons discussed, that Dencker desires a separable configuration, teaching away from this combination. Accordingly, the combination of these references fails to support an obviousness rejection. *Id.* **Dencker Teaches A Continuous Conductor, Teaching Away From The Claimed Separated Particles Which Avoid The Occurrence Of A Continuous Conductor**

As discussed in the interview, Dencker only discloses a continuous conductor on the replaceable tape. As indicated in Dencker's paragraph 0050, the conductive layer is "formed as a mesh of very thin copper wires. This layer is thus flexible and does not break when the tape is bent or stretched...." Wires by their very design are continuous, which is the exact opposite of the claimed structure which particles are "separated so as to avoid the occurrence of a continuous conductor" as recited in Claim 1, and, for example, with particle spacing further defined in Claims 30-33. As Dencker's configuration teaches away from the claimed discontinuous conductor, the reference does not support a rejection of the claims. *W.L. Gore*, 721 F.2d at 1540.

Integrating The Segmented Conductor Means Into The Blade Is Not An Obvious Integration

Sundance, Inc. v. DeMonte Fabricating Ltd., 550 F.3d 1356 (Fed. Cir. 2008), teaches that a claimed invention is likely to be obvious if it is a combination of known prior art elements that would reasonably have been expected to maintain their respective properties or functions after they have been combined. The Examiner has asserted that integrating the continuous conductor with the blade is an obvious integration of known parts. Applicant disagrees.

The integrated blade and segmented conductor means does not operate as a separate tape and blade because, as indicated, one cannot replace the integrated segmented conductor means as required by Dencker. In addition, as indicated, the integrated segmented conductor means does not function as Dencker's system. This is because the claimed integrated system does not become damaged by lightning while the tape in Dencker is expected to become damaged by lightning. Accordingly, the integrated blade and segmented conductor means are not just a combination of Dencker's elements which maintain their original functions, and the combination is not obvious.

Dencker's Paragraph 0030, Which Mentions A Particle Based Conductor, Does Not Teach The Claimed Invention

Applicant and the Examiner discussed Dencker's paragraph 0030, from which the Examiner relies on the following text to assert the claims are anticipated and/or obvious: "suitable constructions comprise electrically conductive layers comprising metal particles disbursed in a polymer layer." Applicant disagreed in the interview for the following reasons.

Dencker's Paragraph 0030 Is Not An Enabling Disclosure

Elan Pharm., Inc. v. Mayo Foundation for Medical and Education

Research, 346 F.3d 1051, 1054 (Fed. Cir. 2003) stands for the proposition that the "mere naming or description of the subject matter is insufficient, if it cannot be produced without experimentation." There is not enough information in Dencker's paragraph 0030 to comprehend what Dencker may be describing. There is no way to determine in Dencker's paragraph 0030 whether Dencker is describing a replaceable tape, as otherwise taught in Dencker, or an integrated structure as presently claimed.

There is also no way to tell anything about the particles in Dencker's paragraph 0030, such as the size, material properties, distribution density, etc. The term "disburse" in Dencker's paragraph 0030 is unhelpful. For example, the verb "disburse" means to "distribute," which in turn mean to "spread out so as to cover." See <http://www.merriam-webster.com/dictionary/disburse>, retrieved December 21, 2010; <http://www.merriam-webster.com/dictionary/distribute>, retrieved December 21, 2010. There is nothing in Dencker's paragraph 0030 addressing the distribution density of the particles so as to conclude whether Dencker is describing a continuous or discontinuous conductor. Accordingly, without a more enabling disclosure, Dencker's paragraph 0030 cannot anticipate or render obvious the claimed segmented conductor which is integral with the blade.

Dencker's Paragraph 30, In View Of Dencker's Disclosure As A Whole, Teaches Away From The Claimed Invention

There is no basis to conclude that Dencker's paragraph 0030 is teaching an embodiment which substantially departs from the rest of Dencker's disclosure. As indicated, Dencker is directed to a replaceable lightning conductor and Dencker's paragraph 0050 teaches that the conductor is flexible. In the same

paragraph, Dencker discusses the continuous wire configuration of its lightning conductor, including wire thicknesses and material resistance. Accordingly, considering Dencker as a whole, Dencker's polymer configuration introduced in paragraph 0030 would be a flexible and replaceable tape. Further, Dencker's particles would be concentrated to provide the same continuous conductor effect of the wires disclosed in Dencker's paragraph 0050. Thus, Dencker's paragraph 0030, when considering Dencker as a whole, teaches away from the presently claimed invention, directed to a discontinuous conductor which is integral with the blade, and does not support a rejection of the claims. *W.L. Gore*, 721 F.2d at 1540.

**Hindsight Would Be Required To Reject The Claims In View of
Dencker's Paragraph 0030**

Applicant recognizes that "[a]ny judgments on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning... so long as it takes into account only knowledge which was within the level of ordinary skill in the art at the time the claimed invention was made and does not include knowledge gleaned only from applicant's disclosure." *In re McLaughlin*, 443 F.2d 1392, 1395, 170 USPQ 209, 212 (CCPA 1971). However, there is no support in Dencker's paragraph 0030 to conclude that Dencker is describing a discontinuous conductor which is integral with the blade as claimed. With the rest of Dencker supporting the exact opposite conclusion, and without any reference teaching the claimed features, it appears improper hindsight reasoning would be required to interpret Dencker's paragraph 0030 as the presently claimed invention.

Summary

It is respectfully asserted that there is no basis for finding the pending claims are unpatentable in view of the cited art. Accordingly, a notice of allowance is requested.

Respectfully submitted,

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